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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 CR 861 (JMF)

5 ROBERT OLINS,

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 December 16, 2015  
3:00 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13  
14  
15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the  
18 Southern District of New York

ANDREA GRISWOLD

CHRISTINE I. MAGDO

19 Assistant United States Attorneys

20 DANIEL E. WENNER

21 Attorney for Defendant

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1 (In open court; case called)

2 THE COURT: We are here for arraignment and initial  
3 conference in this matter.

4 Mr. Olins, my name is Jesse Furman. I'm a United  
5 States District Judge here in the district and have been  
6 assigned your case. That means I will preside over it through  
7 trial if it goes to trial. In the event it gets to sentencing,  
8 then I will be the judge who sentences you.

9 The purpose of today's proceeding, as I mentioned, is  
10 to arraign you on the indictment and to set a schedule for the  
11 next portion of the case.

12 Before we do that, let me just say the following: As  
13 counsel probably know, I was Assistant United States Attorney  
14 in this district until the spring of 2012. I mention that only  
15 because, given the dates of the alleged offense in this case, I  
16 wanted to disclose that and make clear, to my knowledge, I had  
17 nothing to do whatsoever with any investigation, let alone  
18 prosecution of this matter.

19 Ms. Griswold, do you have any reason to believe  
20 otherwise?

21 MS. GRISWOLD: No, your Honor.

22 THE COURT: I also want to disclose that Ms. Griswold  
23 was actually my intern. I, actually, don't remember what year.  
24 But many years ago, when she was in law school, she served as  
25 an intern when I was at the United States Attorney's Office.

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1 I don't see any reason why either of those should  
2 result in my disqualification. If you believe otherwise,  
3 Mr. Wenner, you may make a motion on that issue. Any such  
4 motion would be due two weeks from today, and we will set a  
5 schedule for any other motions thereafter.

6 With that, unless there is anything that counsel needs  
7 to raise, we will proceed to the arraignment.

8 Mr. Olins, would you please rise.

9 Have you seen a copy of the indictment, 15 CR 861,  
10 charging you with various crimes, including obstruction of  
11 justice, conspiracy to obstruct justice, conspiracy to commit  
12 bank fraud, bank fraud, and money laundering?

13 THE DEFENDANT: I have.

14 THE COURT: Have you discussed it with your lawyers?

15 THE DEFENDANT: Yes, I have.

16 THE COURT: Would you like me to read the indictment  
17 out loud, or do you waive its public reading?

18 THE DEFENDANT: I waive that.

19 THE COURT: How do you plead at this time; guilty or  
20 not guilty?

21 THE DEFENDANT: Not guilty.

22 THE COURT: Ms. Griswold, what can you tell me about  
23 the case? I have reviewed the complaint and the indictment,  
24 but if you can give me a little background, that would be  
25 helpful.

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1 MS. GRISWOLD: Yes, your Honor.

2 As set forth in the complaint and the indictment, this  
3 case arises out of a prior SEC disgorgement judgment against  
4 the defendant for approximately 3.5 million and the SEC's  
5 subsequent efforts to collect on that judgment. As set forth  
6 in both of the charging documents, the defendant had an arts  
7 and antiques collection. A receiver was appointed,  
8 specifically Judge Cote, here in the Southern District, to  
9 oversee the process of selling items from that collection in  
10 order to satisfy the SEC's judgment, as well as a prior first  
11 security interest that AB&T, a bank in Oklahoma, had on that  
12 collection. This case arises from two items in that collection  
13 that the government believes there was fraud that occurred with  
14 respect to those transactions; specifically, the sale of a set  
15 of vases in or about 2012; and then, subsequently in 2012, as  
16 well, the sale of a dragon candelabra. Essentially, the  
17 offense conduct is that the defendant conspired with an  
18 individual at an auction company, an arts and antiques company,  
19 here in New York to deceive the receiver and the Court into  
20 approving the sale of those items at certain prices when in  
21 fact the defendant and the individual from the auction house  
22 referred to in the charging instruments as CC-1 knew those  
23 items were of much greater value and had an agreement to split  
24 the overage, if you will.

25 The defendant was charged by complaint in four counts

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1 on August 25th and arrested on August 26th of this year. The  
2 defendant was released on bail on September 25th. Two order of  
3 continuance were entered for 30-day periods on September 28th  
4 and then on October 28th. A two-week order of continuance was  
5 entered on November 30th, and the defendant was indicted this  
6 past Monday, on December 14th, on the four charges contained in  
7 the complaint, as well as an additional count of money  
8 laundering.

9 In terms of the discovery in this case, there are a  
10 couple of different categories. There is a database of  
11 documents that underlie the SEC actions in this case, both the  
12 contempt proceeding, as well as the underlying securities fraud  
13 action from 2007. They include documents produced by AB&T,  
14 documents produced by the auction house, as well as documents  
15 produced by the person named in the charging instruments as  
16 individual two. It is about 12,000 documents. It is a very  
17 over-inclusive set of documents, I would say, in terms of the  
18 narrow two transactions named in our charging instruments, but  
19 they are all documents that we would see as producing under  
20 Rule 16. In addition, we have bank records for two accounts,  
21 as well as obviously the complaint and indictment, which we  
22 have already produced.

23 We would typically ask for two weeks, but we would ask  
24 for until Friday, January 8th, to produce discovery, just given  
25 the holidays.

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1 I'm happy to answer any other questions.

2 THE COURT: Sure. Thank you for that thorough  
3 recitation.

4 Number one, any post-arrest statements?

5 MS. GRISWOLD: No, your Honor.

6 THE COURT: And with respect to the 12,000 or so  
7 documents, are those in electronic form?

8 MS. GRISWOLD: They are. We have had communication  
9 with defense counsel about the best way to get them those  
10 documents. They are currently in a Concordance database, and  
11 we have communicated with Mr. Wenner about providing them to  
12 defense counsel in that format, which seems to be something  
13 that is going to work for them, although We haven't done that  
14 yet.

15 THE COURT: Okay. Will that be in a format or form  
16 that they could then search, or is there some way that they  
17 could identify or you could help identify documents within the  
18 universe? It sounds over-inclusive, by your own  
19 acknowledgment; that is to say, I imagine there is plenty in  
20 there that is frankly irrelevant to the charges here. In that  
21 regard, I imagine it might be helpful if they don't have to go  
22 through necessarily one by one to identify the ones that are  
23 actually relevant. Is there some way that they would be able  
24 to do that with or without your assistance?

25 MS. GRISWOLD: Without our assistance at this point,

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1 no, but we can certainly give some thoughts to potentially  
2 adding some tags to that database to flag for them the  
3 documents that are most closely related to the facts at issue  
4 here. I know that is something that we have done in the past,  
5 so that when they open the database, they can sort by the  
6 documents that have been tagged. And it is searchable; that  
7 they can also search by search terms, using some of the ones  
8 that would be obvious in this case.

9 THE COURT: You know better than I what the documents  
10 and universe of documents looks like, and I would encourage you  
11 guys to discuss it. If there are ways to facilitate things,  
12 I'm sure they would be appreciated.

13 I take it that there are entities or individuals who  
14 would qualify as crime victims for the purposes of the Crime  
15 Victims Rights Act here; is that correct?

16 MS. GRISWOLD: I think, your Honor, AB&T Bank would  
17 certainly.

18 THE COURT: Is there a process in place to notify them  
19 and anyone else who would qualify as a victim of their rights  
20 under the act?

21 MS. GRISWOLD: We will put that in place, your Honor.

22 THE COURT: Please make sure you do that sooner rather  
23 than later.

24 All right. Anything else?

25 MS. GRISWOLD: No, your Honor.

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1           THE COURT: All right. Mr. Wenner, my general  
2 practice, in case you don't know, is to set a deadline for the  
3 filing of any defense motions other than any motion for  
4 disqualification, which I have already addressed. After any  
5 such motion would be fully submitted, I will have you guys back  
6 for a conference, at which I would address any motions and we  
7 would then set a trial date at that time.

8           First, let me say I will direct the government to  
9 produce all discovery in its possession by January 8th of 2016.  
10 To the extent, Ms. Griswold, you can begin production even  
11 before that date, I would appreciate if you would do that; that  
12 is to say, that is the deadline, but I would encourage you to  
13 produce things on a rolling basis if that is feasible.

14           In light of that deadline and what you have heard,  
15 Mr. Wenner, I guess the question for you is when you would be  
16 prepared to file any motions that you might want to bring.

17           MR. WENNER: Your Honor, may I ask, when you say  
18 motions, do you mean discovery motions, motions in limine, that  
19 sort of thing, as well?

20           THE COURT: Discovery motions I suppose would be  
21 included, although I would point you to local Rule 16.1, if  
22 you're not familiar with it, that requires you to confer with  
23 the government before bringing any discovery-related motion,  
24 including a motion for a bill of particulars, and requires an  
25 affidavit indicating that you have done that. And I would tell



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1 you that I would deny any motion that is not accompanied by  
2 that affidavit. But by motion, I mean motions to suppress,  
3 motions to dismiss the indictment, discovery motions, again  
4 assuming they're in compliance with the local rules and so  
5 forth. Motions in limine or things that would probably be  
6 raised by motions in limine can be done closer to trial in  
7 connection with a motion in limine schedule.

8 MR. WENNER: Your Honor, I think if we receive the  
9 documents by January 8th and if the government is able to help  
10 us kind of segregate the wheat from the chaff as far as what is  
11 going to be germane to this case, I think that we would be able  
12 to file the motions that you're alluding to probably within a  
13 month after that, I would say, maybe mid-February. Is that  
14 doable?

15 THE COURT: Sure. I will give you until February 19th  
16 to file any defense motions; any opposition would be due by  
17 March 4th; any reply by March 11th. Then, I will have you back  
18 here on March 17th -- we can celebrate Saint Patrick's Day  
19 together -- at 3:30 in the afternoon. If there are motions  
20 filed, you should be prepared to address them at that time. If  
21 they're of the nature that I can deal with them during the  
22 conference, I may well do so. So you should be prepared for  
23 that. If there is a motion that would seem to require a  
24 hearing, we will schedule the hearing at that conference if not  
25 before.

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1           Again, just to reiterate, I will be setting a trial  
2           date at that conference. In case you're not aware, when I set  
3           a trial date, I consider it to be a firm date, which is to say  
4           it is not likely to change. You should confer with one another  
5           with respect to how long a trial in this matter would likely be  
6           and when you would want a trial to be scheduled, and I will do  
7           my best to accommodate your interests, but with the  
8           understanding that when I set the date, it will be a firm date.

9           Ms. Griswold, is there any application with respect to  
10          the speedy trial clock?

11          MS. GRISWOLD: Your Honor, both Ms. Magdo and I are  
12          actually scheduled to be out of the office the week of  
13          March 17th. If we can ask possibly for an appearance a week  
14          before or a week after. We can have coverage, of course, if  
15          necessary, but it would be our preference to have one of us be  
16          here.

17          THE COURT: I think it would probably make sense, in  
18          the event that there are motions, to have you be present. In  
19          light of that, we will not celebrate Saint Patrick's Day  
20          together, and I will schedule it for Tuesday, March 22nd, at  
21          the same time, that is, 3:30 in the afternoon.

22          Is there any application under the Speedy Trial Act?

23          MS. GRISWOLD: Yes, your Honor. The government would  
24          request that time be excluded from the speedy trial clock until  
25          Tuesday, March 22nd, in order to allow the defendant to review

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1 the discovery that has already been produced, as well as the  
2 discovery that will be forthcoming, and for the defendant to  
3 contemplate and file any motions.

4 THE COURT: Any objection, Mr. Wenner?

5 MR. WENNER: No, your Honor.

6 THE COURT: I will exclude time under the speedy trial  
7 clock between today and March 22nd, 2016. I find that the ends  
8 of justice served by excluding that time outweigh the interests  
9 of the defendant and the public in a speedy trial, to permit  
10 the government to complete its discovery obligations, and, more  
11 importantly, to allow counsel and the defendant to review  
12 discovery, to consider any motions that they would like to  
13 file, and to prepare those motions.

14 All right. Ms. Griswold, anything else?

15 MS. GRISWOLD: No, your Honor. Thank you.

16 THE COURT: Mr. Wenner.

17 MR. WENNER: Just one thing, your Honor. Mr. Olins is  
18 currently on pretrial release, and his travel is restricted to  
19 I believe New York, New Jersey, and Connecticut. There is a  
20 proceeding in the Northern District of California with the SEC  
21 and he has attorneys out there he is working with, and so we  
22 would ask the Court if his conditions can be modified so that  
23 he can travel to the Northern District of California with prior  
24 notification to the pretrial service officer. I have consulted  
25 with the government, and they said they do not object to this

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1 request.

2 THE COURT: How often would you anticipate that trial  
3 would be necessary?

4 MR. WENNER: I would say not too frequently but  
5 frequently enough that it might be in everybody's interests not  
6 to have to make an application each time.

7 THE COURT: I will grant the application, but it is  
8 only on notice to both the government and pretrial services,  
9 and in the event that there is any issue, it can be brought to  
10 my attention, but subject to notification to both of them, the  
11 application is granted.

12 MR. WENNER: Thank you, your Honor.

13 MS. GRISWOLD: Just for clarity of the record, I think  
14 the travel restrictions right now are Southern and Eastern  
15 District of New York and the District of Connecticut. I don't  
16 think New Jersey is currently a condition, and I don't think  
17 there is a request.

18 MR. WENNER: I'm sorry, your Honor. I misspoke.

19 THE COURT: Yes, you're correct, at least according to  
20 the docket. To be clear, the application, as I understand it,  
21 is to expand that to the Northern District of California and to  
22 presumably travel to there, but solely for purposes of relating  
23 to the SEC proceedings and on notice to pretrial services and  
24 the government.

25 MR. WENNER: That is correct, your Honor.

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1 THE COURT: That is granted.

2 Anything other than that?

3 MR. WENNER: No, your Honor.

4 THE COURT: In that case, we are adjourned.

5 I wish everybody happy holidays.

6 (Adjourned)

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